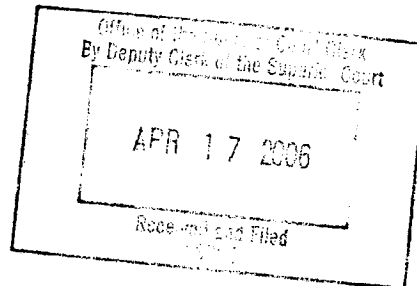


ZULIMA V. FARBER  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law, 5th Floor  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for Plaintiffs

By: Anna M. Lascrain  
Deputy Attorney General  
(973) 648-4802

Isabella T. Stempler  
Deputy Attorney General  
(973) 648-4802



SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION - ESSEX COUNTY  
DOCKET NO. ESX C-69-04

PETER C. HARVEY, Attorney General  
State of New Jersey on behalf of  
FRANKLIN L. WIDMANN, Chief of The  
New Jersey Bureau Of Securities and THE NEW  
JERSEY BUREAU OF SECURITIES,

Plaintiffs,

v.

CLOVER MANAGEMENT GROUP, INC.,  
CLOVER MERCHANT GROUP, LTD., CLOVER  
DEFENSE PARTNERS, L.P., CLOVER  
JCM DEFENSE PARTNERS, LLC, CLOVER  
CAPITAL MANAGEMENT, LLC, CMG  
ADVISORS, LLC, CLOVER INTERNATIONAL  
ADVISORS, HEBERT MARIO FIGUEROA,  
CARMINE RUSSO, THOMAS RUSSO, and  
MICHAEL PETROKANSKY a/k/a  
MICHAEL PETRO,  
Defendants.

Civil Action

SECOND AMENDED  
VERIFIED COMPLAINT

Plaintiffs, Peter C. Harvey, then Attorney General of the State of New Jersey, with offices located at 124 Halsey Street, Newark, New Jersey, on behalf of Franklin L. Widmann, Chief of the New Jersey Bureau of Securities ("Bureau Chief" or "NJBOS" or "Bureau"), with principal offices at 153 Halsey Street in the City of Newark, County of Essex, State of New Jersey, by way of Complaint against the above-named defendants say:

### STATEMENT OF THE CASE

Plaintiffs bring this civil action pursuant to the New Jersey Uniform Securities Law, N.J.S.A. 49:3-47 et seq., ("Securities Law") for violating the following provisions of the Securities Law: (i) N.J.S.A. 49:3-52 (a) (employing a device, scheme or artifice to defraud); (ii) N.J.S.A. 49:3-52 (b)(making false statements of material fact or omitting to state a material fact); (iii) N.J.S.A. 49:3-52 (c) (engaging in act, practice, or course of business which operates as a fraud or deceit upon any person); (iv) N.J.S.A. 49:3-56(a) (acting as a broker-dealer without registration); (v) N.J.S.A. 49:3-56(h) (employing unregistered agents); (vi) N.J.S.A. 49:3-56(a) (acting as an agent without registration); and (vii) N.J.S.A. 49:3-60(sale of unregistered securities).

### PARTIES

1. Plaintiffs, Peter C. Harvey, then Attorney General of New Jersey, on behalf of Franklin L. Widmann, Chief of the NJBOS, brings this action to enforce the provisions of the Securities Act, N.J.S.A. 49:3-47 et seq.

2. Defendants, Clover Management Group, Inc. ("CMG"), Clover Merchant Group, LTD., Clover Defense Partners, L.P., Clover JCM Defense Partners, LLC, Clover Capital Management, LLC, CMG Advisors, LLC, and Clover International Advisors (collectively referred to as "Clover" or the "Clover Entities") are various entities created by the individual defendants to engage in the sale of

securities. The primary place of business for the Clover Entities is, and/or was, 2 Executive Drive, Suite 820, Fort Lee, New Jersey. Upon information and belief, the primary purpose of the Clover Entities is to solicit overseas investors, primarily from the United Kingdom, to invest in various illegal securities schemes.

3. None of the Clover Entities has ever been registered with the Bureau in any capacity.

4. Upon information and belief the only office of any Clover Entity in the United States, or any other country, was located in Fort Lee, New Jersey.

5. Defendant Hebert Mario Figueroa ("Figueroa") is the founder, director and sole stockholder of CMG and a director, officer and/or shareholder of each of the other Clover Entities. At all times relevant to this Second Amended Verified Complaint, Figueroa held himself out as a principal and/or agent of one or more Clover Entities to solicit foreign investors. Figueroa was sanctioned by South Carolina for securities fraud in 1999 and by the NASD for securities violations in 1997 when he was employed with GKN Securities, in New York. Figueroa is not registered with the NJBOS as a broker-dealer or in any other capacity.

6. At all times relevant to this Second Amended Verified Complaint, defendant Carmine Russo ("C. Russo") served as the director, officer and/or a principal of one or more of the Clover Entities to solicit foreign investors. C. Russo is not registered with the NJBOS as a broker-dealer or in any other capacity.

7. At all times relevant to this Second Amended Verified Complaint, defendant Thomas Russo ("T. Russo") served as a director, officer, and/or a principal of one or more of the Clover Entities to solicit of foreign investors. T. Russo is not registered with the NJBOS as a broker-dealer or in any other capacity.

8. At all times relevant to this Second Amended Verified Complaint, defendant Michael Petrokansky a/k/a Michael Petro ("Petrokansky") served as an executive director and/or principal of one or more of the Clover Entities to solicit foreign investors. Petrokansky acted as an unregistered agent of the Clover Entities by selling unregistered securities from New Jersey to foreign investors. Petrokansky is not registered with the NJBOS as a broker-dealer or any other capacity.

### **JURISDICTION AND VENUE**

9. Jurisdiction is proper over each defendant because each was either a broker dealer whose only office was in New Jersey or the agent of a broker dealer whose only office was in New Jersey. Pursuant to N.J.S.A. 49:3-56(b), each Clover Entity had to register in New Jersey as a broker dealer and, pursuant to N.J.S.A. 49:3-56(c), each individual defendant had to register in New Jersey as an agent of a broker dealer.

10. Jurisdiction is proper over each violation of N.J.S.A. 49:3-52 and N.J.S.A. 49:3-60 that is the subject of this complaint because each alleged violation involved the use of letters or e-mails that identified themselves as from a New Jersey based company or as originating from New Jersey. Therefore, pursuant to N.J.S.A. 49:3-51(b) and N.J.S.A. 49:3-51(c), every sale and offer to sell that violated N.J.S.A. 49:3-52 and N.J.S.A. 49:3-60 originated in New Jersey.

11. Venue is proper pursuant to R. 4:3-2(a) because plaintiff Bureau's principal office is located in Essex County.

### **FACTUAL BACKGROUND**

12. As a result of a complaint by a former Clover employee, the NJBOS and other law enforcement agencies, including the Federal Bureau of Investigation ("FBI"), United States Securities and Exchange Commission ("SEC") and the Metropolitan Police Service, New Scotland

Yard (a/k/a Scotland Yard), commenced investigations of the Clover Entities. The various investigations involve conduct which began as early as 2001.

13. The investigations have revealed that the Clover Entities: (a) are controlled, managed and operated by Figueroa, C. Russo, T. Russo, Petrokansky and others; and (b) have engaged in securities scams that have cost investors millions of dollars.

14. During the summer of 2001, the Clover Entities paid for an insert in "Jaguar Magazine," which interested investors could complete and return to Clover, in Fort Lee, New Jersey, for additional information on investing opportunities. Prospective investors who returned the insert received a telephone call from T. Russo of Clover Capital Management who described the company and its investing strategies.

15. T. Russo described Clover Capital Management as a private equity firm which specialized in financing private companies through Merchant Banking, which was described as a private equity and mergers and acquisitions group. T. Russo represented that Clover was selling shares in several companies, including Aeroprecision and Immunex and guaranteed investors their principal investment and significant short-term returns on the investments.

16. However, neither Russo nor Clover provided prospective investors with a prospectus or any other risk disclosure document relating to these investments.

17. During August 2002, T. Russo represented that Clover would join Aeroprecision with three (3) other companies and then do a public offering of the combined company in the very near future. T. Russo repeatedly represented to investors that the Aeroprecision investment would be a good short-term investment because the public offering, which was guaranteed to occur in or around October 2002, would triple the value of their investments. Despite these guarantees,

investors never received the promised returns nor any return of their principal.

18. Clover, through T. Russo, required that investor monies be wire transferred to a Clover bank account at Commerce Bank in Hillsdale, New Jersey. In exchange, Clover sent investors stock certificates created by Figueroa. Upon information and belief, these stock certificates were fraudulent.

19. Clover also represented to prospective investors that Aeroprecision, a United States Department of Defense contractor, made a majority of the Tomahawk cruise missiles. In fact, Aeroprecision only made a small portion of the Tomahawk missiles.

20. Clover also use deceptive practices to offer shares of a company named Invatech, which it described as a public service company. Clover, through Figueroa, sold Invatech shares at \$8.00 through representations that Invatech would be involved in an IPO within 90 days that would raise its value to \$30 per share. In a letter dated March 1, 2002, Clover also told investors that it had received a letter of intent from Legg Mason Wood Walker, Incorporated ("Legg Mason") to arrange up to \$30 million in additional financing for Invatech. The Clover letter to investors stated, in pertinent part:

Invatech has recently received a letter of intent from Legg Mason Wood Walker, Incorporated ("Legg Mason") to arrange up to US \$30 million in additional financing. Legg Mason is an established American investment banking firm with assets under management of over US \$170 billion. This next round of financing is expected to be used for Invatech's proposed acquisition of three target companies....Invatech believes these acquisitions will enhance its valuation in its proposed initial public offering. Invatech now expects that it will begin the SEC filing process for the IPO this month and currently anticipates an IPO price range of between \$17-21 per share.

21. In fact, Legg Mason had a short-term investment banking relationship with Invatech and Legg Mason had only agreed to assist with a private placement because it did not think that an

initial public offering of Invatech stock was possible.

22. Clover also misrepresented that a Legg Mason research analyst agreed to "follow" Invatech after the initial public offering and Legg Mason would finance Invatech's acquisitions.

23. On November 25, 2003, Clover, through Figueroa, sent a letter to Aeroprecision investors which, among other things, advised them that their investment in Aeroprecision was essentially lost. The letter further advised Aeroprecision investors that Clover would "make available to each Aeroprecision investor their pro rata share of 5% of the General Partners equity interest in Clover Defense Partners, LP."

24. Clover represented that "Defense Partners currently owns 48% of JCM Engineering, which is a world class precision manufacturer of sophisticated parts and components for military and commercial aerospace applications. Primary programs include the Tactical Tomahawk and the C-17 Transport for Raytheon and Boeing."

25. Clover, through Figueroa, also represented to prospective and actual investors of Clover Defense Partners that: (1) return of their entire principal within 90 - 120 days; (2) receive a rate of return of 10% per annum; and (3) receive a "55% stake or share in the company which if sold for the projected 15 time earnings would net you a 5 times return on your money."

26. Each of these statements were false or misleading because at the time, the defendants had planned to misappropriate and divert the majority of investor funds for their use and benefit.

27. Investors who exchanged their investments for Clover Defense Partners, L.P. were subsequently informed that Clover Defense Partners had been disbanded with no information about the whereabouts of investor funds.

28. Clover targeted United Kingdom citizens because they were not familiar with United

States securities and the processes and procedures of the defense industry. Clover also sought to capitalize upon the relationship between the United States and the United Kingdom relating to the Iraq war making a series of statements that played upon the ongoing war and the partnership between American and British troops.

29. In addition to United States law enforcement, Clover has been the subject of an undercover investigation in the United Kingdom. An investigation was commenced by Scotland Yard. Scotland Yard received a tip from an investor who had received a "cold call" which came from an individual identifying himself as an employee of CMG, Ltd. Scotland Yard Detective Roland Baker, whose Certification is filed herewith, obtained the cooperation of the investor who agreed to assist him by providing a reference for an Undercover Officer ("UCO") who made contact with C. Russo of Clover. C. Russo then introduced the UCO to Ram Melwani who provided outstanding references about Clover.

30. Two other UCOs were introduced to Clover representatives, who arranged a meeting in London for the UCOs to meet defendants, Figueroa, Petrokansky and Gregory Skollar ("Skollar"). During the meeting, the UCOs were shown a Power Point presentation, which extolled the virtues of CMG and encouraged an investment in CMG.

31. During November 2003, the Financial Services Authority ("FSA") of the United Kingdom received a complaint about the activities of CMG on its hotline. Detective Baker made contact with the complaining individual, Richard Pickford, who had invested \$68,727 in CMG, and received no return on his investment.

32. United Kingdom investors John Fisher and Stuart Prescott ("Prescott") also invested in Clover. Prescott invested \$85,000, which was allegedly used to purchase Aeroprecision stock. In

March 2003, after repeated stalling by Figueroa and others at Clover, Prescott was informed that his original investment could not be returned.

33. Figueroa solicited Prescott, and other investors, to transfer his Aeroprecision stock into a new Clover known as Clover Defense Group, which was allegedly going to buy smaller defense contractors to take advantage of the war in Iraq and the on-going war on terrorism. Prescott declined this invitation and over the next several months, repeatedly attempted to recover his initial investment. Despite his efforts, and those by other investors, to date, no money, principal or interest has been returned to any Clover investor known to Plaintiffs.

34. On February 20, 2004, Figueroa sent a letter to investors on behalf of Clover Merchant Group, LTD., indicating, in part, that: (a) Aeroprecision's senior secured lender had or would, foreclose on it; (b) Clover and Clover Management Group Advisors had determined to terminate and abandon the partnership's offering of interests in Clover Defense Partners; and (c) Clover had closed its Fort Lee offices. In short, all of the previous investments, and presumably the money invested therein, was unrecoverable.

35. The February 20, 2004 correspondence went on to propose a new business plan by Mr. Figueroa, and other unnamed business people, to "seek to locate, contract with, finance and acquire a number of individual profitable Target Companies...." The February 20, 2004 correspondence indicated that Clover Merchant Group was located at One Closter Commons, #210, Closter, New Jersey. This new address is a mail drop.

**FACTUAL ALLEGATIONS AS TO DEFENDANT MICHAEL PETROKANSKY**

36. In or around January 2003, Petrokansky commenced working for the Clover Entities. On January 14, 2003, he received a \$50,000 advance.

37. From January 2003 through February 2004, Petrokansky was not registered as an agent of any Clover Entity. During that period, Petrokansky sold unregistered securities from the Clover Entities' Fort Lee, New Jersey office to foreign investors.

38. Petrokansky solicited at least nine (9) investors and raised over \$4 million for the Clover Entities. Petrokansky received commissions from his sales to each investor.

39. Petrokansky's commissions from the sale of unregistered securities were in excess of \$1.5 million. In one case, as identified below, his commissions exceeded 40% of the investment.

40. From March 2003 through February 2004, Petrokansky worked in concert with defendant Figueroa to offer and sell unregistered securities to investor Howard Martine King ("Investor King").

41. In March 2003, Petrokansky made a telephone "cold call" to Investor King.

42. On March 12, 2003, Petrokansky sent an e-mail to Investor King, which attached a document entitled "Clover JCM Defense Partners Basic Overview" which provided the following account of the "units" of Clover JCM Defense Partners, LLC ("Clover Defense Partners"):

The first round financing offers "units" consisting of common stock interests" and "preferred stock interests." The preferred interests give an investor a first priority on the gain from any sale of JCM; this means that when JCM is sold (which is what is expected) and Defense Partners receives its share of the sale proceeds, the first right on the proceeds is held by the holders of the preferred interests in an amount equal to their investment. This means that if you buy one unit for \$400,000, you have a preferred interest for \$400,000 from the sale- and then you keep the common stock interest which gives you the opportunity to share in the value appreciation of JCM

43. The statement that investors would receive "preferred stock interests" was false or misleading because at the time the defendants had a plan to misappropriate and divert the majority of investor funds for their use and benefit.

44. Subsequent to Petrokansky's March 12, 2003 e-mail communication, Investor King made an initial investment of \$1,000,000 to purchase preferred stock in Clover Defense Partners.

45. On or about April 2, 2003, Investor King wire transferred his \$1,000,000 payment to the Clover Entities' bank account at Commerce Bank in Hillsdale, New Jersey.

46. Petrokansky's commission for Investor King's April 2, 2003 investment was approximately \$400,000, or 40%, of Investor King's principal investment.

47. On or about April 22, 2003, Investor King made a second investment of \$1,000,000 to purchase preferred stock in Clover Defense Partners.

48. On April 22, 2003, Investor King wire transferred his payment to the Clover Entities' bank account at Commerce Bank in Hillsdale, New Jersey.

49. In July 2003, Investor King made his third investment of approximately \$2,000,000 to purchase preferred stock in Clover Defense Partners, which was paid by wire transfer to the Clover Entities' bank account at Commerce Bank in Hillsdale, New Jersey.

50. From June 2003 through December 2003, Petrokansky acted in concert with Skollar, to offer and sell unregistered securities to investor Robin Geoffrey Seldon ("Investor Seldon").

51. Investor Seldon received a telephone "cold call" in June 2003 about an investment opportunity in Clover Defense Partners in June 2003.

52. Skollar followed up by sending Investor Seldon a Clover Defense Partners offering which included the following representations:

- (a) the investor will receive a total return of all capital invested within a 60-120 day time period; and
- (b) a 55% equity interest in the underlying operating company.

53. Each statement was false or misleading because at the time the defendants had a plan

to misappropriate and divert the majority of investor funds for their use and benefit.

54. After receiving the Clover Defense Partners offering from Skollar, Investor Seldon informed Petrokansky that he did not have \$500,000 to invest. When Petrokansky told Investor Seldon that "part" units would be considered, Investor Seldon indicated that he might invest \$50,000 but first wanted to speak with other Clover Entities investors.

55. On or about June 30, 2003, Petrokansky reiterated the terms of the Clover Defense Partners Offering and its purported returns to Investor Seldon.

56. On July 2, 2003, Investor Seldon received the Clover Defense Partners "Subscription Agreement" from Skollar.

57. Thereafter, Investor Seldon indicated that he would invest \$100,000 in Clover Defense Partners.

58. On July 3, 2003, Investor Seldon sent Petrokansky and Skollar a check in the amount of \$35,000 payable to Clover Defense Partners.

59. On July 8, 2003, Investor Seldon wire transferred the remaining \$65,000 to the Clover Entities' bank account at Commerce Bank, Hillsdale, New Jersey.

60. On October 25, 2003, approximately 120 days after his investment, and still within the purported "window for reimbursement," Investor Seldon contacted Petrokansky for an update on his investment.

61. Petrokansky failed to respond to Investor Seldon's inquiry.

62. On or about March 8, 2004, Investor Seldon contacted defendant Figueroa to inquire about his investment in Clover Defense Partners to no avail.

63. From June 2003 through July 2003, Petrokansky acted in concert with Skollar to

offer and sell unregistered securities to United Kingdom investor Robert James Oakley ("Investor Oakley").

64. On June 18, 2003, Skollar made a cold call to Investor Oakley to inform him of an investment opportunity in Clover Defense Partners.

65. On June 18, 2003, Skollar used e-mail to send Investor Oakley a transaction overview of Clover Defense Partners. The overview stated that Clover Defense Partners would: (1) acquire up to seven operating companies in the aerospace and military-defense industries; (2) acquire the real property on which the operating companies operate; and (3) sell the real property to a holding company that would finance its purchase through a sale-leaseback arrangement with the holding company.

66. In the June 18, 2003 communication, Skollar made the following representations to Investor Oakley:

- (a) full return of principal investment within 60-90 days; and
- (b) 55% stake or share in the company which if sold for the projected five times earnings would net you a 5 times return on your money.

67. Each statement was false or misleading because at the time the defendants had a plan to misappropriate and divert the majority of investor funds for their use and benefit.

68. On June 20, 2003, Investor Oakley met with his financial adviser, Petrokansky and Joseph Cappuccio of the Clover Entities to discuss Clover Defense Partners and other investment opportunities with the Clover Entities.

69. During the meeting, Petrokanksy and Joseph Cappuccio told Oakley and his financial adviser, among other things, that Clover had a team in the United Kingdom analyzing the potential acquisition of PFW, a company which was a supplier to Airbus and which used to make

Messerschmidt aircraft.

70. On June 21, 2003, Investor Oakley's financial adviser sent a series of follow-up questions to Petrokansky regarding the investment opportunities with the Clover Entities.

71. On June 25, 2003, Petrokansky responded to the questions by e-mail. His response included the following statements: (a) investor funds would be escrowed pending the closing of each acquisition and (b) each investor's principal would receive a first priority payout upon disposition.

72. Each statement was false or misleading because at the time the defendants had a plan to misappropriate and divert the majority of investor funds for their use and benefit. In addition, the Clover Entities investor money was pooled in an account at Commerce Bank in Hillsdale, New Jersey.

73. Subsequent to Petrokansky's June 25, 2003 response Investor Oakley decided to invest \$500,000 in Clover Defense Partners.

74. On or about July 18, 2003, Investor Oakley sent a letter to Petrokansky at the Clover Entities' Fort Lee, New Jersey office. The letter enclosed a completed subscription agreement and information about how the payment would be wired transferred. On or about July 23, 2003, Investor Oakley wire transferred his \$500,000 payment to the Clover Entities' bank account at Commerce Bank, Hillsdale, New Jersey.

75. In the July 18, 2003 letter, Investor Oakley stated that he was "only investing in the fund based upon [Petrokansky's] assurances of the acquisition of PFW and the subsequent benefits that this deal brings. JCM alone is not of sufficient attractiveness to me....in short if the PFW acquisition had not been 'done' as you assured me I definitely would not be investing in the Clover

Defense Partnership.”

76. On November 9, 2003, Investor Oakley asked Petrokansky whether the PFW transaction was near completion or had it “fizzled out.”

77. Petrokansky failed to respond to Investor Oakley’s inquiry.

78. On February 21, 2004, Investor Oakley again told Petrokansky that he “convinced [him] to do this deal and to a lesser extent [Skollar].”

79. Thereafter, Investor Oakley made inquiries to Petrokansky and others about his investment without success. Despite Investor Oakley’s efforts, to date, no money, principal or interest has been returned to him.

80. On November 10, 2003, two undercover officers from the New Scotland Yard met with Figueroa, Petrokansky and Skollar.

81. During the November 10, 2003 meeting Petrokansky, Skollar and Figueroa made a pitch to the undercover officers relating to their prospective investment with the Clover Entities. The pitch included the following statements:

- (a) their principal investment was guaranteed plus 10% return per annum;
- (b) rate of return would be “7 times the money” invested; and
- (c) investor monies would remain in an escrow account until such time as CMG consummated certain transactions.

82. Each statement was false or misleading because at the time the defendants had a plan to misappropriate and divert the majority of investor funds for their use and benefit. In addition, there was no basis for the representation that investor monies would remain in an escrow account because all Clover Entities investor money was pooled in an account at Commerce Bank in Hillsdale, New Jersey.

COUNT I

EMPLOYING ANY DEVICE, SCHEME OR  
ARTIFICE TO DEFRAUD IN VIOLATION OF  
N.J.S.A. 49:3-52(a) AS TO EACH CLOVER  
ENTITY, HEBERT MARIO FIGUEROA, THOMAS  
RUSSO, CARMINE RUSSO AND MICHAEL  
PETROKANSKY

83. Plaintiffs repeat the allegations in the preceding paragraphs as if fully set forth herein.

84. Defendants individually and/or through their directors, officers, employees, agents and attorneys, acting in concert with each other, employed a scheme to defraud investors by engaging in the conduct described in this Second Amended Verified Complaint to offer and sell investments through Clover Entities. Defendants' scheme included, but was not limited to:

- (a) Promising investors guaranteed returns on investments that were not guaranteed;
- (b) Misrepresenting the nature and solvency of the investments to investors;
- (c) Failing to return investor funds; and
- (d) Misappropriating investor funds for personal benefit and use.

85. Each time a defendant used this scheme to offer or sell an investment through the Clover Entities he committed a separate violation of N.J.S.A. 49:3-52(a) and is subject to imposition of a civil monetary penalty pursuant to N.J.S.A. 49:3-70.1.

## COUNT II

### **MAKING MATERIALLY FALSE OR MISLEADING STATEMENTS AND/OR OMITTING MATERIAL FACTS IN VIOLATION OF N.J.S.A. 49:3-52(b) AS TO EACH CLOVER ENTITY, HEBERT MARIO FIGUEROA, THOMAS RUSSO, CARMINE RUSSO AND MICHAEL PETROKANSKY**

86. Plaintiffs repeat the allegations in the preceding paragraphs as if fully set forth herein.
87. Defendants individually and/or through their officers, directors, employees, agents, attorneys, successors, subsidiaries directly and/or indirectly, made materially false or misleading statements and/or omitted material facts to investors in connection with the offer and sale of securities.
88. The false or misleading statements included:
- (a) investor funds would be escrowed pending the closing of each acquisition;
  - (b) investor principal would receive a first priority payout upon disposition;
  - (c) the rate of return would be "5 times the money" invested; and
  - (d) full return of principal would occur within 60-90 days.
89. The omitted material facts included:
- (a) the investor funds were used illegally, in the manner described in preceding paragraphs of this Second Amended Verified Complaint;
  - (b) the investments were securities that were sold by unregistered persons in violation of the New Jersey Uniform Securities Law;
  - (c) the Clover Entities were not registered as broker/dealers with the NJBOS; and
  - (d) the agents offering the securities were not registered as agent of a broker-dealer with the NJBOS.
90. Each time a defendant made a materially false or misleading statement to offer or sell

an investment through the Clover Entities or omitted to state a material fact to offer or sell an investment through the Clover Entities he committed a separate violation of N.J.S.A. 49:3-52(b) and is subject to the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

### COUNT III

**ENGAGING IN ANY ACT OR PRACTICE WHICH WOULD OPERATE AS A FRAUD OR DECEIT UPON ANY PERSON IN CONNECTION WITH THE OFFER, SALE OR PURCHASE OF SECURITIES IN VIOLATION OF N.J.S.A. 49:3-52(c) AS TO DEFENDANTS CLOVER ENTITIES, HEBERT MARIO FIGUEROA, THOMAS RUSSO, CARMINE RUSSO AND MICHAEL PETROKANSKY**

91. Plaintiffs repeat the allegations in the preceding paragraphs as if fully set forth herein.

92. Defendants engaged in the practice of : (a) promising guaranteed returns on investments that were not guaranteed to investors, (b) misrepresenting the nature and solvency of the investments; and (c) failing to return investor funds while misappropriating investor funds for personal benefit. This practice operated as a fraud and/or deceit upon the investors and others, in violation of N.J.S.A. 49:3-52(c).

93. Each time a defendant engaged in the aforementioned practice to offer or sell an investment through the Clover Entities he committed a separate violation of N.J.S.A. 49:3-52(c) and is subject to imposition of a civil monetary penalty pursuant to N.J.S.A. 49:3-70.1.

### COUNT IV

**ACTING AS A BROKER-DEALER WITHOUT REGISTRATION N.J.S.A. 49:3-56(a) AS TO THE CLOVER ENTITIES**

94. Plaintiffs repeat the allegations in the preceding paragraphs as if fully set forth herein.

95. The Clover Entities had an office in New Jersey.
96. Each Clover Entity used that office to affected or attempt to affect transactions in securities. Thus, each Clover Entity acted as a broker-dealer, as defined in Section 49:3-49(c) of the Securities Law.
97. None of the Clover Entities were registered with the NJBOS as a broker-dealer.
98. N.J.S.A. 49:3-56(b) does not recognize any exemption from the registration requirement for a broker-dealer with an office in New Jersey.
99. Therefore each Clover Entity violated N.J.S.A. 49:3-56(a), which requires, that only persons and entities registered with the Bureau may lawfully act as broker-dealers.

#### COUNT V

#### ACTING AS AN AGENT WITHOUT REGISTRATION IN VIOLATION OF N.J.S.A. 49:3- 56(a) AS TO DEFENDANT PETROKANSKY

100. Plaintiffs repeat the allegations set forth in the preceding paragraphs as if fully set forth herein.
101. Defendant Petrokansky represented the Clover Entities in affecting or attempting to affect transactions in securities from, in or within New Jersey and, thus, acted as an agent, as defined in section 49:3-49(b) of the Securities Law, without being registered with the Bureau.
102. N.J.S.A. 49:3-56(c) requires that every agent of a broker-dealer with an office in New Jersey has to be registered with the NJBOS as an agent of that broker-dealer.
103. Defendant Petrokansky violated N.J.S.A. 49:3-56(a) because he was not registered with the NJBOS as an agent of any Clover Entity and was not entitled to any exemption from registration.
104. The violation of N.J.S.A. 49:3-56(a) is cause for the imposition of a civil monetary

penalty pursuant to N.J.S.A. 49:3-70.1.

#### COUNT VI

##### **EMPLOYING UNREGISTERED AGENTS IN VIOLATION OF N.J.S.A. 49:3-56(h) AS TO THE CLOVER ENTITIES**

105. Plaintiffs repeat the allegations in the preceding paragraphs as if fully set forth herein.

106. The individual defendants acted as agents of the Clover Entities in affecting or attempting to affect transactions in securities from, in or within New Jersey. Although each individual defendant acted as an agent as defined in Section 49:3-49(b) of the Securities Law, the Clover Entities failed to register the individual defendant with the NJBOS as required by N.J.S.A. 49:3-56(h).

107. Each Clover Entity's failure to register an individual defendant as an agent was a separate violation of N.J.S.A. 49:3-56(h), which subjects the Clover Entity to the imposition of a civil monetary penalty pursuant to N.J.S.A. 49:3-70.1.

#### COUNT VII

##### **OFFERING AND SELLING UNREGISTERED SECURITIES IN VIOLATION OF N.J.S.A. 49:3-60 AS TO ALL DEFENDANTS**

108. Plaintiffs repeat the allegations set forth in the preceding paragraphs as if fully set forth herein.

109. The investments in Aeroprecision, Invatech and Clover Defense Partners that each defendant either individually or through its directors, officers, employees, or agents, offered or sold to investors were securities as defined in N.J.S.A. 49:3-49(m) of the Securities Law.

110. None of these securities were registered with the NJBOS or entitled to an exemption from the registration requirement.

111. Therefore, each defendant sold unregistered securities in violation of N.J.S.A. 49:3-60.
112. Each offer to sell and sale by a defendant, either individually or through its directors, officers, employees, and agents of unregistered securities, is a separate violation, which is subject to the imposition of a civil monetary penalty pursuant to N.J.S.A. 49:3-70.1.

### COUNT VIII

**ENGAGING IN ANY PRACTICE, OR COURSE  
OF BUSINESS WHICH OPERATES OR WOULD  
OPERATE AS A FRAUD OR DECEIT UPON ANY  
PERSON IN VIOLATION OF N.J.S.A. 49:3-52(c)  
AGAINST DEFENDANT MICHAEL  
PETROKANSKY**

113. Plaintiffs repeat the allegations set forth in the preceding paragraphs as if fully set forth herein.
114. N.J.S.A. 49:3-49(e)(3) defines fraud to include "the gaining of or attempting to gain, directly or indirectly, through a trade in any security, a commission, fee or gross profit so large and exorbitant as to be unconscionable, unreasonable or in violation of any law."
115. On or about April 2, 2003, Investor King, through Petrokansky made an initial investment of \$1,000,000 to purchase preferred limited partnership units in Clover Defense Partners and wire transferred his \$1,000,000 payment to the Clover Entities' bank account at Commerce Bank in Hillsdale, New Jersey.
116. Petrokansky's commission for Investor King's April 2, 2003 investment was approximately \$400,000, or 40%, of Investor King's principal investment.
117. Defendant Petrokansky's commission of 40% on the sale of a security is unreasonable and unconscionable and therefore constituted a practice which operated as a fraud or deceit upon investors. Any other commission that Petrokansky received in excess of 20% also constituted a practice

which operated as a fraud or deceit upon investors.

118. Each violation of N.J.S.A. 49:3-52(c) is a separate violation of that statute and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

### **PRAYER FOR RELIEF**

**WHEREFORE**, as to Counts One through Eight, plaintiffs respectfully demand the entry of a judgment pursuant to N.J.S.A. 49:3-47 et seq. against all defendants::

- a. Finding that Defendants engaged in the acts and practices alleged above;
- b. Finding that such acts and practices constitute violations of the Securities Law;
- c. Enjoining Defendants from violating the following provisions of the Securities Law:
  - (i) N.J.S.A. 49:3-52 (a) (employing a device, scheme or artifice to defraud); (ii) N.J.S.A. 49:3-52 (b)(making false statements of material fact or omitting to state a material fact); (iii) N.J.S.A. 49:3-52 (c) (engaging in act, practice, or course of business which operates as a fraud or deceit upon any person); (iv) N.J.S.A. 49:3-56(a) (acting as a broker-dealer without registration); (v) N.J.S.A. 49:3-56(h) (employing unregistered agents); (vi) N.J.S.A. 49:3-56(a) (acting as an agent without registration); and (vii) N.J.S.A. 49:3-60(sale of unregistered securities);
- d. Enjoining the issuance, sale, offer for sale, purchase, offer to purchase, promotion, negotiation, advertisement or distribution from or within New Jersey of the securities of the Clover Entities, and any other security as that term is defined in the Securities Law by the Clover Entities, their officers, directors, employees, agents, brokers, partners, stockholders, attorneys, successors, subsidiaries, affiliates, and Hebert Mario Figueroa, Thomas Russo, Carmine Russo and Michael Petrokansky including


- their agents and anyone acting on their behalf;
- e. Freezing the assets of and enjoining Defendants and all persons who receive actual or constructive notice of this order from directly or indirectly disposing of, transferring, selling, dissipating, encumbering, liquidating, or withdrawing any assets or property owned or controlled by said defendants except that they may pay ordinary and necessary business expenses which have been approved in advance by the receiver described below. These assets shall include, but are not limited to, accounts in any and all financial institutions, brokerage and trading accounts, real property, personal property, pension and retirement accounts, etc.;
- f. Enjoining Defendants and each and every person who receives actual or constructive notice of this order, from destroying or concealing any books, records and documents relating in any way to the business, financial and use of illegally obtained assets for personal use of all Defendants, their successors, subsidiaries or affiliates;
- g. Pursuant to N.J.S.A. 49:3-69, appointing a receiver, to serve without bond, who will:
1. Have the full statutory powers to perform the receiver's duties as delineated in N.J.S.A. 49:3-69 (c) and (d) and Title 14 of the New Jersey Statutes, Corporations, General, including, but not limited to, those set forth at N.J.S.A. 14a:14-1 et seq. or so far as the provisions thereof are applicable.
  2. Immediately take possession of all the assets of Defendants whose assets including, but not limited to, holdings and interests in all financial institutions, brokerage and trading accounts;
  3. Undertake all actions necessary or appropriate to maximize the value of the assets, including the liquidation of any such assets;
  4. Review all books and records pertaining to each Defendant whose assets are frozen and report to the Court within 90 days of the requested Order;

5. Determine the identities of each investor and every creditors of each Defendant whose assets are frozen, past and present, and the status of their accounts;
  6. Determine the financial condition of each Defendant, including with respect to each Clover Entity, its successors, subsidiaries and affiliates;
  7. Create a preliminary plan to distribute the assets of each Defendant to the extent required by the Court, to investors and creditors, including the NJBOS;
  8. Determine the necessity of retaining professionals, including but not limited to accountants and attorneys, to assist the receiver in fulfilling its responsibilities as ordered by the Court, and upon making a determination of necessity and obtaining Plaintiffs' consent, apply to the Court for an order permitting the retention of such professionals by the receiver;
  9. Be held harmless from and against any liabilities, including costs and expenses of defending claims, for which the receiver may become liable or incur by reason of any act or omission to act in the course of performing the receiver's duties, except upon a finding by this Court of gross negligence or willful failure of the receiver to comply with the terms of this or any other order of this Court, irrespective of the time when such claims are filed;
  10. Be compensated out of the estate of each Defendant whose assets are frozen, and with respect to each Clover Entity, the estate of its successors, subsidiaries and affiliates; and
  11. Be permitted to resign upon giving written notice to this Court and Plaintiffs of the receiver's intention to resign, which resignation shall not become effective until appointment by the Court of a successor which shall be subject to Plaintiffs' approval; and
- h. Affording each purchaser of securities issued by or on behalf of Clover the option of rescinding such purchase and obtaining a refund of monies paid, plus statutory pre-judgment interest and expenses incident to effecting the purchase and rescission; .
- i. Affording each purchaser of securities issued by or on behalf of Clover, who no longer has the securities, the option of receiving restitution for losses incurred on purchases of the securities, plus statutory pre-judgment interest and expenses incident to effecting the purchase and restitution;

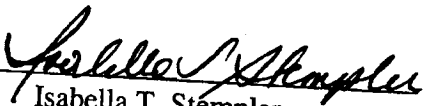
- j. Requiring all Defendants to disgorge all profits and/or funds gained through violations of the Securities Law;
- k. Assessing Defendants civil monetary penalties for each incident of violating the Securities Law in accordance with N.J.S.A. 49:3-70.1; and
- l. Affording plaintiffs and affected third parties any additional relief the Court may deem just and equitable.

ZULIMA V. FARBER  
ATTORNEY GENERAL OF NEW JERSEY

By: \_\_\_\_\_

  
Anna M. Lascurain  
Deputy Attorney General

By: \_\_\_\_\_

  
Isabella T. Stempler  
Deputy Attorney General


Dated: 4/17/06

**RULE 4:5-1 CERTIFICATION**

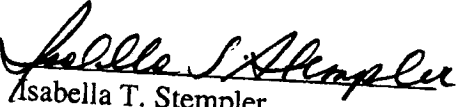
I certify that Plaintiffs in this matter have not initiated any other civil action in any court of this State against Defendants and are not now engaged in any arbitration proceeding against Defendants, nor is any other civil action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action.

ZULIMA V. FARBER  
ATTORNEY GENERAL OF NEW JERSEY

By:

  
Anna M. Lascurain  
Deputy Attorney General

By:

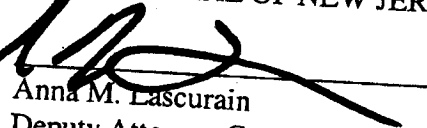
  
Isabella T. Stempler  
Deputy Attorney General

**DESIGNATION OF TRIAL COUNSEL**

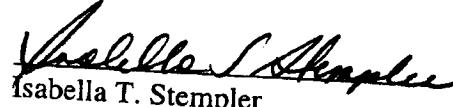
Deputy Attorneys General Anna M. Lascurain and Isabella T. Stempler are hereby designated as trial counsel for this matter.

ZULIMA V. FARBER  
ATTORNEY GENERAL OF NEW JERSEY

By:

  
Anna M. Lascurain  
Deputy Attorney General

By:

  
Isabella T. Stempler  
Deputy Attorney General

Dated: 4/16/06

**VERIFICATION**

**Michael McElgunn**, of full age, certifies as follows:

1. I am a Supervising Investigator with the New Jersey Bureau of Securities.
2. I have read this Second Amended Verified Complaint and verify that the information contained in this Second Amended Verified Complaint is true and correct to the best of my knowledge, information and belief.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 4/17/06

Michael McElgunn  
Michael McElgunn